



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

June 8, 1939

Hon. E. L. Shelton  
County Auditor  
Johnson County  
Cleburne, Texas

Dear Sir:

Opinion No. C-724

Re: To whom should claims for over-  
night lodging and feeding of pri-  
soners on the way to the peniten-  
tiary be presented and in what  
amount?

Your request for opinion upon the above ques-  
tion has been received by this department. We quote  
from your letter as follows:

"In transporting prisoners to the peni-  
tentiary, occasionally the custodian making  
the conveyance finds it convenient to stop  
over nights in Cleburne with his prisoners.  
These prisoners are cared for and fed and  
kept in the jail. It occurs to me that the  
State of Texas does not wish any county to  
bear this expense but I am unable to find  
where such claims should be presented and  
for what amounts. To whom should claim be  
presented and for how much per diem?"

Article 6166(r), Revised Civil Statutes of  
Texas, in part, reads as follows:

"Transportation of prisoners. The mana-  
ger shall make suitable provisions and regu-  
lations for the safe and speedy transportation  
of prisoners from counties where sentenced to  
the State penitentiary by the sheriffs of such

Hon. E. L. Shelton, June 8, 1939, Page 2

respective counties if such sheriffs are willing to perform such services as cheaply as said commission can have it done otherwise. Said transportation shall be on State account and in no instance shall the prisoners be carried direct from the county jails to the State farm, but shall first be carried to the receiving station as designated by the prison board where the character of labor which each prisoner may reasonably perform shall be determined...."

It is apparent from a reading of the above statute that it is the duty of the manager of the prison system to make suitable provisions and regulations for the safe and speedy transportation of prisoners from counties where sentenced to the state penitentiary by the sheriffs of such respective counties if such sheriffs are willing to perform such services as cheaply as said commission can have it done otherwise. It is further apparent that if such sheriffs are not willing to perform such services as cheaply as said commission can have it done otherwise, then in that event the prison commission, through its manager, may contract for such services elsewhere. We can see no legal inhibition which would prevent the manager of the prison system, either personally or by some legally authorized agent, from contracting with the commissioners' court of the county for the providing of overnight lodging and feeding of state prisoners on the way to the penitentiary by the county in the county jail. We can see no legal inhibition which would prevent an independent contractor, having a contract with the manager of the prison system, to transport prisoners from counties where sentenced to the state penitentiary, from contracting with the commissioners' court of the county for the providing of overnight lodging and feeding of state prisoners on the way to the penitentiary by the county in the county jail.

Therefore, in answer to your question, you are respectfully advised that it is the opinion of this department that any valid claim for overnight lodging and feeding of prisoners on the way to the penitentiary should

Hon. E. L. Shelton, June 8, 1939, Page 3

be presented to the party or system contracting for such overnight lodging and feeding of prisoners. You are further respectfully advised that the amount of the claim or claims should be the amount previously agreed upon or contracted for by and between the parties to the contract.

Trusting that this answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

BY

*Wm. J. Fanning*

Wm. J. Fanning  
Assistant

WJT:AW

APPROVED:

*George B. Mann*  
ATTORNEY GENERAL OF TEXAS

